

HB0034S01 compared with HB0034

~~{deleted text}~~ shows text that was in HB0034 but was deleted in HB0034S01.

inserted text shows text that was not in HB0034 but was inserted into HB0034S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this document will not be a totally accurate comparison. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Julie Fisher proposes the following substitute bill:

DEPARTMENT OF TRANSPORTATION SETTLEMENT

AGREEMENT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Julie Fisher

Senate Sponsor: _____

LONG TITLE

~~{Committee Note:~~

~~— The Transportation Interim Committee recommended this bill.~~

~~{General Description:~~

This bill modifies the State Settlement Agreements Act by amending provisions relating to certain Department of Transportation construction contract claim settlement agreements and settlement agreements that resolve bid or request for proposal protests.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ requires the Department of Transportation to obtain approval of the ~~{governor or~~

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~~the~~ Transportation Commission or the governor or review by the Legislative Management Committee for certain construction contract claim settlement agreements if the claim is being recommended by the Department of Transportation's claims review board;

- ▶ prohibits the Department of Transportation from entering into a construction contract claim settlement agreement that is being recommended by the Department of Transportation's claims review board in certain circumstances until the ~~governor or the~~ Transportation Commission or the governor has approved the agreement or the Legislative Management Committee has reviewed the agreement;
- ▶ requires the Department of Transportation to obtain approval of the ~~governor or the~~ Transportation Commission or the governor or review by the Legislative Management Committee for certain settlement agreements that resolve a bid or request for proposal protest; and
- ▶ prohibits the Department of Transportation from entering into a settlement agreement that resolves a bid or request for proposal protest in certain circumstances until the ~~governor or the~~ Transportation Commission or the governor has approved the agreement or the Legislative Management Committee has reviewed the agreement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-6-801, as renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:

63G-10-402, Utah Code Annotated 1953

63G-10-403, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-6-801 is amended to read:

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63G-6-801. Protest to chief procurement officer -- Time -- Authority to resolve protest.

(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the chief procurement officer or the head of a purchasing agency. A protest with respect to an invitation for bids or a request for proposals shall be submitted in writing prior to the opening of bids or the closing date for proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to the protest prior to bid opening or the closing date for proposals. The protest shall be submitted in writing within five working days after the aggrieved person knows or should have known of the facts giving rise thereto.

(2) ~~The~~ Subject to the applicable requirements in Section 63G-10-403, the chief procurement officer, the head of a purchasing agency, or a designee of either officer shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve the protest.

Section ~~63G-6-801~~2. Section **63G-10-402** is enacted to read:

Part 4. Department of Transportation Settlement Agreements

63G-10-402. Department of Transportation construction contract claim settlement agreement approval and review.

(1) As used in this section:

(a) "Claims review board" means a committee established by the department to hear unresolved claims and make recommendations for settlement to the deputy director of the department.

(b) "Department" means the Department of Transportation created in Section 72-1-201.

(c) "Settlement agreement" includes stipulations, consent decrees, settlement agreements, or other legally binding documents or representations resolving a dispute between the department and another party when the department is required to pay money or required to take legally binding action.

(2) The department shall obtain the approval of the ~~governor or the~~ Transportation Commission or the governor or review by the Legislative Management Committee of a settlement agreement that involves a construction contract claim in accordance with this section.

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(3) A construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than \$100,000 to implement shall be presented to the ~~governor~~ Transportation Commission for approval or rejection.

(4) A construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than \$500,000 to implement shall be presented:

(a) to the ~~governor~~ Transportation Commission for approval or rejection; and

(b) to the ~~Transportation Commission~~ governor for approval or rejection.

(5) (a) A construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than \$1,000,000 to implement shall be presented:

~~{~~ (i) to the governor for approval or rejection;

~~}~~ (~~iii~~i) to the Transportation Commission for approval or rejection;

(ii) to the governor for approval or rejection; and

(iii) if the construction contract claim settlement agreement is approved by the ~~governor and the~~ Transportation Commission and the governor, to the Legislative Management Committee.

(b) The Legislative Management Committee may recommend approval or rejection of the construction contract claim settlement agreement.

(6) (a) The department may not enter into a construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than \$100,000 to implement until the ~~governor~~ Transportation Commission has approved the agreement.

(b) The department may not enter into a construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than \$500,000 to implement until the ~~governor and the~~ Transportation Commission and the governor have approved the agreement.

(c) The department may not enter into a construction contract claim settlement agreement that is being recommended by the department's claims review board that might cost government entities more than \$1,000,000 to implement until:

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~~{ (i) the governor has approved the agreement;~~

+ ~~{(ii)}~~ (i) the Transportation Commission has approved the agreement;

~~(ii) the governor has approved the agreement;~~ and

~~(iii) the Legislative Management Committee has reviewed the agreement.~~

Section ~~{2}~~3. Section 63G-10-403 is enacted to read:

63G-10-403. Department of Transportation bid or request for proposal protest settlement agreement approval and review.

(1) As used in this section:

(a) "Department" means the Department of Transportation created in Section 72-1-201.

(b) "Settlement agreement" includes stipulations, consent decrees, settlement agreements, or other legally binding documents or representations resolving a dispute between the department and another party when the department is required to pay money or required to take legally binding action.

(2) The department shall obtain the approval of the ~~{governor or the }~~ Transportation Commission ~~or the governor~~ or review by the Legislative Management Committee of a settlement agreement that involves a bid or request for proposal protest in accordance with this section.

(3) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Section 63G-6-801, that might cost government entities more than \$100,000 to implement shall be presented to the ~~{governor}~~ Transportation Commission for approval or rejection.

(4) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Section 63G-6-801, that might cost government entities more than \$500,000 to implement shall be presented:

(a) to the ~~{governor}~~ Transportation Commission for approval or rejection; and

(b) to the ~~{Transportation Commission}~~ governor for approval or rejection.

(5) (a) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Section 63G-6-801, that might cost government entities more than \$1,000,000 to implement shall be presented:

~~{ (i) to the governor for approval or rejection;~~

+ ~~{(ii)}~~ (i) to the Transportation Commission for approval or rejection;

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~~(ii) to the governor for approval or rejection;~~ and

(iii) if the settlement agreement is approved by the ~~{governor and the }~~Transportation Commission ~~and the governor,~~ to the Legislative Management Committee.

(b) The Legislative Management Committee may recommend approval or rejection of the settlement agreement.

(6) (a) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Section 63G-6-801, that might cost government entities more than \$100,000 to implement until the ~~{governor}~~Transportation Commission has approved the agreement.

(b) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Section 63G-6-801, that might cost government entities more than \$500,000 to implement until the ~~{governor and the }~~Transportation Commission ~~and the governor~~ have approved the agreement.

(c) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest in accordance with Section 63G-6-801 that might cost government entities more than \$1,000,000 to implement until:

~~{~~ ~~(i) the governor has approved the agreement;~~

~~{~~ ~~(iii)~~(i) the Transportation Commission has approved the agreement;

~~(ii) the governor has approved the agreement;~~ and

(iii) the Legislative Management Committee has reviewed the agreement.

~~{~~

Legislative Review Note

~~as of 11-17-10 2:22 PM~~

~~Office of Legislative Research and General Counsel}~~